

### **REMARKS**

With entry of this amendment, claims 1, 19 and 32 have been. These amendments address the possibility of the claimed invention including additional occupant detectors per Paper No. 20070918, page 19 as such the claims have been closed through resort to “consisting of” to exclude such other detectors. No new matter has been added and indeed the claimed subject matter of the pending claims has already been searched.

Claims 1-6, 8 and 11 stand rejected under 35 U.S.C. §103(a) over McCarthy (U.S. Patent 6,768,420) in view of Chuang (U.S. Patent 5,054,686). Claim 7 stands rejected under 35 U.S.C. §103(a) over McCarthy in view of Chuang (U.S. Patent 5,054,686) and further in view of Ford (U.S. Patent 6,756,896). Claims 14 and 16 stand rejected under 35 U.S.C. §103(a) as being obvious over McCarthy in view of Chuang and further in view of Wilkinson (U.S. Patent 5,892,447). Claims 14 and 15 stand rejected under 35 U.S.C. §103(a) over McCarthy in view of Chuang and further in view of Brinkmeyer (U.S. Patent 5,940,007). Claim 17 stands rejected under 35 U.S.C. §103(a) as being obvious over McCarthy in view of Chuang and further in view of Barnas (U.S. Patent 6,642,838). Claim 18 stands rejected under 35 U.S.C. §103(a) as being obvious over McCarthy in view of Chuang, Wilkinson and further in view of Barnas. Claims 19-25 and 28 stand rejected under 35 U.S.C. §103(a) over McCarthy in view of Chuang and further in view of Monroe (U.S. Patent 4,882,564). Claims 26 and 27 stand rejected under 35 U.S.C. §103(a) as being obvious over McCarthy in view of Chuang, Monroe and further in view of Barnas. Claims 32, 33, 35 and 36 stand rejected under 35 U.S.C. §103(a) as being obvious over McCarthy in view of Chuang, Monroe and further in view of Ford. Lastly, claim 34 stands rejected under 35 U.S.C. §103(a) as being obvious over McCarthy in view of Chuang, Monroe, and Ford, and further in view of Barnas.

By way of this amendment, independent claims 1, 19 and 32 have been amended to limit the identity of the mammalian body motion detector to only an infrared.

With this amendment, Applicant submits that McCarthy is inapplicable as a reference in establishing a *prima facie* obviousness rejection on the basis that McCarthy only teaches an electric field detector and specifically teaches away from an infrared mammalian body motion detector at column 1, lines 43-45, where it states "Many such prior occupant detection systems [inclusive of active and passive infrared] detect a movement, however, and such systems may fail to detect the presence of, for instance, a sleeping or moribund child." In response to McCarthy's perception as to the failings of infrared sensors to detect mammalian body motion, Applicant submits that the claims are non-obvious to one of skill in the art upon consideration of McCarthy.

Paper No. 20070924 recognizes this limitation of McCarthy and resorts to the teaching so Chuang for a teaching of an infrared detector with specific citation of col. 2, lines 39-48 )(at paragraph spanning pages 3-4). However, the IR sensor of Chuang does not function per the claimed system to prevent inadvertent confinement of an occupant within the space, but rather as a theft protection sensor as noted at col. 5, lines 36-48 which states:

Intruder detection may be accomplished by using one or more of the infrared and motion sensors 32, which may include an interior infrared sensor for detecting the presence of a warm body (living being) in the car, an interior motion sensor for detecting the presence of a moving object in the car, or an automobile motion sensor which detects the sudden movement of the entire car or a part of the car such as a door, indicating that someone is entering the car. If one or more of such detections take place while the vehicle door locks are down, system 10a interprets this as the presence of an intruder and immediately closes all the vents as described more fully below.

As a result of McCarthy teaching away from the claimed invention of independent claims 1, 19 and 32 and Chuang failing to provide an equivalent system in opening and or alerting in response to confinement, Chuang instead closes the space in response to the detection of movement. As such the factual finding as to the state of prior art is respectfully submitted to be inconsistent with the Graham factual inquiry required to support an obviousness rejection. (See Obviousness Examination Guidelines, Federal Registry vol. 72 (195) pages 57526-57537).

With removal of the combination of McCarthy and Chuang as a basis for an obvious rejection, independent claims 1, 19 and 32, and all the claims that depend therefrom, are now submitted to be in allowable form.

Applicant reiterates the remarks already made of record with respect to the remaining rejections as all of the outstanding rejections rely on the combination of McCarthy and Chuang and none of the secondary references bolster the above-highlighted deficiencies of McCarthy and Chuang, these other rejections are likewise now believed to have been overcome.

#### Summary

With entry of this amendment claims 1-8, 11, 14-28 and 32-36 remain pending in the application. Reconsideration and withdrawal of the outstanding rejections is hereby requested on the basis of McCarthy teaching away from the pending claims. Entry of this amendment and the passing of this application to issuance are solicited.

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Respectfully submitted,

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